



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: MAY 09, 2023

IN THE MATTER OF:

Appeal Board No. 628530

PRESENT: RANDALL T. DOUGLAS, MEMBER

The Department of Labor issued the initial determination disqualifying the claimant from receiving benefits, effective October 10, 2022, on the basis that the claimant voluntarily separated from employment without good cause. The claimant requested a hearing.

The Administrative Law Judge held a telephone conference hearing at which all parties were accorded a full opportunity to be heard and at which testimony was taken. There was an appearance by the claimant. By decision filed March 16, 2023 (), the Administrative Law Judge sustained the initial determination.

The claimant appealed the Judge's decision to the Appeal Board.

Based on the record and testimony in this case, the Board makes the following

FINDINGS OF FACT: The claimant filed a claim for unemployment benefits in April 2022. On August 25, 2022, the claimant began working part time as a cashier/customer service representative for the employer beauty supply store.

On September 26, 2022, the claimant made the decision to quit her job. She made this decision because she was unhappy working with "immature coworkers who didn't call or didn't show up for work." On at least one occasion, the claimant was left alone in the store to take care of all the customers herself. The claimant notified the employer on September 26, 2022 that October 9, 2022 would be her last day. The claimant did not attempt to discuss the matter of her coworkers with the employer before she gave her notice, because

she was ready to look for another job. The claimant last worked on October 9, 2022.

On November 7, 2022, the claimant completed a Department of Labor questionnaire seeking information about her October 9, 2022 voluntary separation from employment. In responses on this questionnaire, the claimant stated that she made the decision to quit her job on September 26, 2022, and informed the employer on that date that her last day would be October 9, 2022. The claimant indicated that the specific reason or primary incident that caused her to quit her job was her immature coworkers, and that she did not attempt to resolve this issue with the employer before quitting because she "was ready to look for another job."

On January 10, 2023, the claimant spoke with a Department of Labor representative and indicated that she had an offer to start another job beginning October 17, 2022, and that she was offered that job on October 14, 2022. The claimant also indicated that on her last day, October 9, she was left alone in the store the whole day when her coworker left to get her phone fixed, and that when she got home that day she texted the employer saying she was not coming back.

OPINION: The evidence establishes that the claimant was separated from her employment when she voluntarily resigned from her job effective October 9, 2022. However, the evidence fails to establish that the claimant had good cause for her voluntary separation from employment, for unemployment insurance purposes.

We note that the claimant has presented multiple and inconsistent reasons for her resignation at various times, both prior to and during the hearing in this matter. The explanation that was closest in time to the claimant's separation from employment was provided in the Department of Labor questionnaire completed and submitted on November 7, 2022, signed by the claimant, certifying to its accuracy. In light of the inconsistencies in the claimant's varying accounts, we credit the explanation provided in this questionnaire as the reason the claimant chose to resign from her employment. However, the claimant's unhappiness with, or disapproval of, the conduct of her coworkers does not provide her with good cause to quit continuing employment for unemployment insurance purposes. In addition, as the claimant acknowledged, she did not discuss or attempt to resolve the issue with the employer prior to quitting, because she was ready to look for another job. That statement not

only undercuts the claimant's testimony that she quit because she already had an offer for another job, but it establishes that the claimant failed to take reasonable steps to preserve her employment before quitting.

Further, even if we were to credit the claimant's assertions, made for the first time on appeal, that she did notify the employer of the issue with her coworkers on October 9, 2022, she did so in the same text as notifying the employer that she was quitting, giving the employer no opportunity to address her concerns.

Finally, even if we were to accept the claimant's account that she quit because she had another job, the credible evidence fails to establish that the claimant had received a definite, bona fide offer of employment as of the date she quit. Rather, the claimant's own testimony establishes only that she "kind of knew" about another job opportunity, but did not have a definite off or start date at the time she quit. This testimony is supported by the email the claimant read into the record, dated October 14, 2022, which is a formal offer of employment to the claimant, with the exact start date of October 17, 2022, and the place and time the claimant

was to report. That information is also consistent with what the claimant acknowledges she told a Department of Labor representative she spoke with in January 2023. A quit to accept other employment is considered to be

with good cause for unemployment insurance purposes if it is established that the claimant had received a definitive offer of employment prior to quitting. Since no definitive offer was made to the claimant until October 14, good cause has not been established.

We find that the claimant has not provided a consistent version of the reason or timing of her voluntary separation from employment, and has failed to establish that any of the multiple reasons she provided, amount to good cause for quitting under the Labor Law. Accordingly, we conclude that the claimant was separated from employment under disqualifying circumstances.

DECISION: The decision of the Administrative Law Judge is affirmed.

The initial determination, disqualifying the claimant from receiving benefits, effective October 10, 2022, on the basis that the claimant voluntarily separated from employment without good cause, is sustained.

The claimant is denied benefits with respect to the issues decided herein.

RANDALL T. DOUGLAS, MEMBER